**FARAD CONTINUATION SHEET NO.**

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8259 OF 2004

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| Office notes, office | : | |
| Memoranda of Coram, | : | |
| appearances, Court's | : | Court's or Judge's Orders |
| orders or directions | : | |
| & Registrar's orders. | : | . |

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Mr. Vilas Mali for the petitioners.

**CORAM: SMT. RANJANA DESAI, J.**

**DATED: 15TH APRIL, 2005.**

**P.C.**:-

Heard the learned counsel for the petitioners.

The petitioners are heirs of the original defendants in R.A.E. & R. Suit No.1067/2195 of 1996. This suit is filed on the ground of non payment of rent. It appears that in this suit, the petitioners/defendants had taken out Interim Notice No.2279 of 2004 seeking modification of scrutiny order dated 10/4/2000. It was prayed that the defendants be allowed to deposit 9% interest on the arrears of rent and cost of the suit. The learned counsel for the petitioners

states that the learned judge has however not directed him to deposit the permitted increases in the court. A perusal of the notice shows that though in paragraph 6, there is a reference to permitted increases, there is no specific prayer to the effect that the defendants be directed to deposit the permitted increases in the court. It appears that, therefore, the learned judge has not said anything about the defendants' case that he should be allowed to deposit the permitted increased in the court.

The learned counsel for the petitioners / defendants states that he will take out a fresh notice making a specific prayer to that effect. If such a notice is taken out, the court should pass appropriate orders thereon in accordance with law. Hence, the following order.

In case the petitioners take out a fresh notice making a specific prayer that they may be permitted to deposit the permitted increases in the court, the trial court shall pass appropriate

orders thereon. It is however clarified that this court has not expressed any opinion on the merits of the petitioners' case and the trial court should pass orders strictly in accordance with law.

Petition is disposed of in the aforestated terms.

All connected civil applications are also disposed of.

(SMT. RANJANA DESAI, J.)